

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In re:

Dennis E. Hecker,

**Case No. BKY 09-50779
Chapter 7 Case**

Debtor.

**RESPONSE OF CHRYSLER FINANCIAL SERVICES
AMERICAS LLC, F/K/A DAIMLERCHRYSLER FINANCIAL SERVICES
AMERICAS LLC TO MOTION FOR RELIEF FROM STAY AND ABANDONMENT OF
BLACKSTONE FINANCIAL LLC**

Chrysler Financial Services Americas LLC, f/k/a DaimlerChrysler Financial Services Americas LLC (“Chrysler Financial”), by and through its undersigned counsel, respectfully submits this response (“Response”) to the Motion for Relief From Stay and Abandonment (the “Motion”) filed by Blackstone Financial LLC’s (“Blackstone”). Capitalized terms used herein but not defined are intended to have the same meaning as in Blackstone’s Motion. In response, Chrysler Financial states as follows:

Background

1. By its Motion, Blackstone seeks to lift the stay so it can foreclose on collateral comprised of the MH Claim and the Debtor’s uncertificated ownership interests in the Hecker LLCs (collectively hereinafter referred to as the “Subject Collateral”). Blackstone alleges it holds a valid security interest in the Debtor’s general intangibles, including the Subject Collateral. The Subject Collateral also is encumbered by a valid and perfected security interest and lien held by Chrysler Financial, as evidenced by, among other things, the UCC-1 financing statement recorded by Chrysler Financial on January 28, 2009, a copy of which is attached hereto as Exhibit A and incorporated herein by reference.

2. Chrysler Financial's lien on the Subject Collateral secures repayment of amounts due and owing to Chrysler Financial by the Debtor that exceed \$364,000,000 as evidenced by, among other things, the proof of secured claim filed by Chrysler Financial in this bankruptcy on July 23, 2009.

3. On August 13, 2009, Randall L. Seaver, the chapter 7 trustee in this case (the "Trustee") filed a response to the Motion. The Trustee objects to the Motion on the grounds that Blackstone fails to make a *prima facie* case that cause exists for lifting the stay.

Response

4. Chrysler Financial joins in the objections made by the Trustee in his Response to Motion. Blackstone provides no evidence to meet its burden that the Subject Collateral lacks equity.

5. Blackstone's Motion says the MH Claim is worthless (though query why, if that were truly the case, Blackstone appears so intent to foreclose upon it) and that the Debtor's interest in the Hecker LLCs is worth less than \$750,000.00. These assertions are only supported by the wholly unsupported, undocumented, hearsay statements contained in the Affidavit of Dennis White (the "Affidavit"), who is an agent of Blackstone. Mr White states that he "believes from personal investigation and contacting appraisers that the MH Claim has a value no greater than \$0." Affidavit, ¶ 7. Yet, there is no discussion as to how the "personal investigation" was conducted, no appraisals are attached and no further information is provided to determine the reasonableness of Mr. White's conclusion. Moreover, White claims that the Debtor's interest in the Hecker LLCs has a value substantially less than \$750,000.00, but White fails to provide any explanation regarding what this value is based upon, let alone any information regarding the "how, what, when or who" regarding its calculation. Under these

circumstances, as the Trustee's Response points-out, the Motion plainly fails to demonstrate a lack of equity in the Subject Collateral.

6. Moreover, Chrysler Financial does not concede that Blackstone has a first priority lien with respect to the portion of the Subject Collateral comprised of the Debtor's interests in the Hecker LLCs. The UCC financing statement filed by Blackstone's predecessor in interest, Cornerstone Bank, only identifies a security interest in the Debtor's general intangibles, it does not purport to impose a lien on any investment property. In contrast, Chrysler Financial's UCC financing statement covers both general intangibles and investment property.

7. Minnesota's commercial code specifically excludes "investment property" from its definition of "general intangibles." (*see* Minn. Stat. Section 336.9-102(42)). Investment property may include uncertificated membership interests in limited liability companies depending on the opt-in provisions regarding membership in each LLC as set forth in their respective operating agreements (*see* Minn. Stat. Sections 336-8-103(c) and 336.9-102(49)). Under these circumstances, a genuine issue exists whether Blackstone even has a first lien in the Hecker LLC interests and if, in fact, those interests constitute investment property Blackstone may not have any valid security interest at all. Under these circumstances, no stay relief should be granted unless and until it has been finally determined whether Blackstone has a valid and first priority lien in the Debtor's interests in the Hecker LLCs.

8. For these reasons and the reasons set forth in the Trustee's Response, the Motion should be denied. Alternatively, to the extent the Court concludes that stay relief is warranted with respect to any of the Subject Collateral, Chrysler Financial respectfully requests that the stay also be modified as to it to the extent necessary to permit Chrysler Financial to protect its

interests in the Subject Collateral in any foreclosure or other enforcement proceedings undertaken by Blackstone.

Dated: August 19, 2009

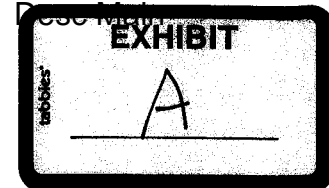
Respectfully Submitted,

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**Attorneys for Chrysler Financial Services
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GP:2631298 V1



UCC FINANCING STATEMENT

A. NAME & PHONE OF CONTACT AT FILER (optional)
B. SEND ACKNOWLEDGMENT TO: (Name and Address)
<p>UCC DIRECT SERVICES 2727 ALLEN PARKWAY, #1000 HOUSTON, TX 77019</p>

Filing Number: 200914760610
Filing Date: 01/28/2009
Filing Time: 1:46 pm
Processing Office: State of Minnesota
Secretary of State
Filed By: UCCOnlineFiling

1. DEBTOR'S EXACT FULL LEGAL NAME INDIVIDUAL'S NAME

Last Name HECKER	First Name DENNIS	Middle Name E.	Suffix
Mailing Address 1492 HUNTER DR.	City WAYZATA	State MN	Postal Code 55391
Country USA			
Tax ID #: SSN or TIN			

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME INDIVIDUAL'S NAME

Last Name	First Name	Middle Name	Suffix
Mailing Address	City	State	Postal Code
Country			
Tax ID #: SSN or EIN			

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P)

ORGANIZATION'S NAME CHRYSLER FINANCIAL SERVICES AMERICAS LLC
Mailing Address 27777 INKSTER ROAD CIMS: 405-23-05
City FARMINGTON HILLS
State MI
Postal Code 48334
Country USA

4. This FINANCING STATEMENT covers the following collateral:

This financing statement covers and the debtor hereby grants the secured party a security interest in: 1. All inventory, including but not limited to all new and used motor vehicles, campers, travel trailers, mobile homes and motor homes, all automotive parts and accessories, all inventory on order but not yet delivered to debtor and all consigned goods, whether now owned or hereafter acquired, together with all additions and accessions thereto and 2. All tangible chattel paper, electronic chattel paper, accounts, payment intangibles, franchise rights, books, records, files, computer disks, software, commercial tort claims, contract rights, documents, instruments, promissory notes, general intangibles, investment property, supporting obligations, equipment, furniture, machinery, tools, supplies, fixtures and leasehold improvements, whether now owned or hereafter acquired, together with all substitutions, replacements, accessories, additions and accessions thereto or therefor and 3. All products and proceeds of the property covered by this statement, including but not limited to insurance proceeds on the property, money, tangible chattel paper, electronic chattel paper, goods including without limitation motor vehicles received in trade, contract rights, accounts, documents, instruments, promissory notes, general intangibles, payment intangibles, claims, tort recoveries and manufacturer or distributor credits, compensation, allowances, rebates or other payments relating to the property.

5. ALTERNATIVE DESIGNATION (if applicable)	<input type="checkbox"/> Lessor/Lessor	<input type="checkbox"/> Consignee/Consignor	<input type="checkbox"/> Bailee/Bailor	<input type="checkbox"/> Seller/Buyer	<input type="checkbox"/> AG. Lien	<input type="checkbox"/> Non-UCC Filing
6. <input type="checkbox"/> This FINANCING STATEMENT is to be filed (or recorded) in the REAL ESTATE RECORDS. Attach Addendum (if applicable)	7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) (ADDITIONAL FEE) (optional)		<input type="checkbox"/> All Debtors	<input type="checkbox"/> Debtor 1	<input type="checkbox"/> Debtor 2	

8. OPTIONAL FILER REFERENCE DATA:

MN-0-34904280

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In re:

Dennis E. Hecker,

Debtor.

Case No. 09-50779

Chapter 7 Case

CERTIFICATE OF SERVICE

I hereby certify that on August 19, 2009, I caused the following:

Response of Chrysler Financial Services Americas LLC, f/k/a DaimlerChrysler Financial Services Americas LLC to Motion for Relief From Stay and Abandonment of Blackstone Financial LLC;

to be filed electronically with the Clerk of Court through ECF, and that ECF will send an e-notice of the electronic filing to the following:

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I further certify that I caused a copy of the foregoing documents to be mailed by first class mail, postage paid, to the following non-ECF participants:

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Dated: August 19, 2009

GRAY, PLANT, MOOTY,
MOOTY & BENNETT, P.A.

/e/ Stephen F. Grinnell
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